

SENATE BILL 496

E2

2lr2753
CF HB 480

By: **Senator Gladden**

Introduced and read first time: February 2, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Unexecuted Warrant, Summons, or Other Criminal**
3 **Process – Invalidation and Destruction**

4 FOR the purpose of authorizing a law enforcement agency to make a certain request to
5 a certain State’s Attorney to have a certain unexecuted warrant, summons, or
6 other criminal process invalidated and destroyed under certain circumstances;
7 requiring the State’s Attorney to petition a certain administrative judge for the
8 invalidation and destruction of a certain unexecuted warrant, summons, or
9 other criminal process; authorizing the State’s Attorney to argue against the
10 invalidation and destruction of a certain unexecuted warrant, summons, or
11 other criminal process under certain circumstances; providing for the manner in
12 which a court may order the invalidation and destruction of a certain
13 unexecuted warrant, summons, or other criminal process; prohibiting an arrest
14 from being made under the authority of a certain warrant or other criminal
15 process; authorizing the State’s Attorney to enter a nolle prosequi or place a
16 certain case on the stet docket at a certain time; providing for the application of
17 this Act; and generally relating to the invalidation and destruction of
18 unexecuted warrants, summons, or other criminal processes.

19 BY adding to

20 Article – Criminal Procedure

21 Section 4–109

22 Annotated Code of Maryland

23 (2008 Replacement Volume and 2011 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4-109.

2 (A) A LAW ENFORCEMENT AGENCY MAY MAKE A WRITTEN REQUEST FOR
3 THE STATE'S ATTORNEY WITHIN THE JURISDICTION OF THE LAW
4 ENFORCEMENT AGENCY TO PETITION THE ADMINISTRATIVE JUDGE OF THE
5 DISTRICT TO HAVE AN UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL
6 PROCESS IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY
7 INVALIDATED AND DESTROYED DUE TO THE AGE OF THE UNEXECUTED
8 WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF
9 THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES.

10 (B) ON RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS
11 SECTION, THE STATE'S ATTORNEY SHALL PETITION THE ADMINISTRATIVE
12 JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE
13 UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS.

14 (C) THE STATE'S ATTORNEY MAY ARGUE AGAINST THE INVALIDATION
15 AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER
16 CRIMINAL PROCESS DUE TO A JUSTIFIABLE CONTINUING ACTIVE
17 INVESTIGATION OF THE CASE.

18 (D) UNLESS PRESERVATION IS DETERMINED BY THE COURT TO BE
19 JUSTIFIABLE, THE COURT SHALL ORDER THE INVALIDATION AND DESTRUCTION
20 OF AN UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS IN
21 ACCORDANCE WITH § 1-605 OF THE COURTS AND JUDICIAL PROCEEDINGS
22 ARTICLE.

23 (E) AN ARREST MAY NOT BE MADE UNDER THE AUTHORITY OF A
24 WARRANT OR OTHER CRIMINAL PROCESS THAT HAS BEEN ORDERED
25 INVALIDATED AND DESTROYED.

26 (F) THE STATE'S ATTORNEY MAY ENTER A NOLLE PROSEQUI OR PLACE
27 THE CASE ON THE STET DOCKET AT THE TIME OF THE COURT ORDER UNDER
28 THIS SECTION.

29 (G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:

30 (1) PREVENT THE REISSUANCE OF A WARRANT, SUMMONS, OR
31 OTHER CRIMINAL PROCESS;

32 (2) AFFECT THE TIME WITHIN WHICH A PROSECUTION FOR A
33 MISDEMEANOR MAY BE COMMENCED; OR

1 **(3) AFFECT ANY PENDING CRIMINAL CHARGE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2012.